

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

KEITH RAWLINS,

Plaintiff,

v.

DON MARLOW, et al.,

Defendants.

Case No. C19-1905-RSM-BAT

ORDER DECLINING TO ADOPT  
REPORT AND RECOMMENDATION  
AND REFERRING BACK TO  
MAGISTRATE JUDGE

This matter comes before the Court on the Report and Recommendation (“R&R”) of the Honorable Brian A. Tsuchida. Dkt. #39. In that R&R, issued May 29, 2020, Judge Tsuchida notes that Plaintiff Rawlins “has not responded to defendants’ summary judgment motion but filed a motion to compel discovery” and that he does not therein indicate there is any evidence that may explain his apparent failure to properly exhaust his administrative remedies regarding the allegations in this case. *Id.* at 2. Judge Tsuchida recommends granting Defendants’ Motion for Summary Judgment for failure to exhaust administrative remedies and dismissing Mr. Rawlins’s claims without prejudice.

On June 3, 2020, the Court received a “Motion for Extension of Time to File Response to Summary Judgment” from Mr. Rawlins. Dkt. #40. The Motion is handwritten and dated

1 May 24, 2020. Mr. Rawlins argues that he has “recently received important discovery  
2 documents that will take time to research.” *Id.* On June 8, 2020, Mr. Rawlins filed timely  
3 Objections to the R&R, wherein he states that he submitted the above Motion for Extension of  
4 Time through the inhouse mail to the Law Library on May 24, 2020. Dkt. #41 at 1. He also  
5 states that he has had extremely limited access to the law library. *Id.* at 3. He then goes on to  
6 address the merits of his case and describes various prior attempts at filing grievances. *Id.* at 3–  
7 4.  
8

9 Given all of the above the Court finds it possible that an extension of time could be  
10 warranted and that it would be improper to adopt the R&R as drafted. The Court will refer this  
11 matter back to Judge Tsuchida for consideration of the pending Motions for extension of time  
12 to file response to summary judgement and to appoint counsel.  
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14 Having reviewed the relevant briefing and the remainder of the record, the Court hereby  
15 DECLINES to adopt the pending Report and Recommendation, Dkt. #39. The Court  
16 DIRECTS this matter to be referred back to Judge Tsuchida for consideration of the pending  
17 Motions for Extension of Time, Dkt. # 40 and Motion to Appoint Counsel, Dkt #42.  
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19 DATED this 12<sup>th</sup> day of June, 2020.  
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24 RICARDO S. MARTINEZ  
25 CHIEF UNITED STATES DISTRICT JUDGE  
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